

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Gary Shimun, Town Adminsitrator

**PREPARED BY:** Russell Muniz, MBA, CMC, Town Clerk

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** District 1

**ITEM REQUEST:** **Schedule for Council Meeting**

**TITLE OF AGENDA ITEM:** A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE AGREEMENT BETWEEN THE TOWN OF DAVIE AND DAVIE TRAVEL CENTER, INC. AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The Town of Davie adopted Resolution R-2004-190 which authorized the Mayor to execute an Agreement with Jolmy Enterprises, Inc. which provides that neither party will assert a statute of limitations defense for any claim which may expire between July 1, 2004 and September 1, 2005. On April 4, 2004 the Mayor of the Town of Davie executed an agreement between Jolmy Enterprises, and the Town of Davie. The Town subsequently adopted R2005-232 on August 17, 2005 which authorized the Mayor to execute an Agreement with the Davie Travel Center, Inc. and provided that the Waiver Agreement be extended to September 1, 2006. On August 16, 2006 the Mayor of the Town of Davie executed an Agreement between Davie Travel Center, Inc and the Town of Davie via R-2006-226 which extended the agreement to September 1, 2007.

The Davie Travel Center is requesting that the Waiver Agreement be extended until September 1, 2008.

**PREVIOUS ACTIONS:** See above

**CONCURRENCES:** N/A

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

If yes, expected cost: \$

Account Name:

If no, amount needed: \$

What account will funds be appropriated from:

Additional Comments: Resolution and Agreement will be provided under separate cover.

RESOLUTION \_\_\_\_\_

A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA ACCEPTING THE AGREEMENT BETWEEN THE TOWN OF DAVIE AND DAVIE TRAVEL CENTER, INC. AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Davie adopted Resolution R-2004-190 which authorized the Mayor to execute an Agreement with Jolmy Enterprises, Inc. which provides that neither party will assert a statute of limitations defense for any claims for any claim which may expire between July 1, 2004 and September 1, 2005; and

WHEREAS, on August 4, 2004, the Mayor of the Town of Davie executed an Agreement between Jolmy Enterprises, Inc.; and,

WHEREAS, Jolmy Enterprises, Inc. subsequently assigned any interest it has in the Agreement to the Davie Travel Center, Inc.; and

WHEREAS, on August 17, 2005 the Mayor of the Town of Davie executed an Agreement between Davie Travel Center, Inc. and the Town of Davie; and

WHEREAS, the Town of Davie adopted R-2005-232 which authorized the Mayor to execute an Agreement with the Davie Travel Center, Inc. which provides that the Waiver Agreement extend to September 1, 2006; and

WHEREAS, the Town of Davie adopted R-2006-226 which authorized the Mayor to execute an Agreement with the Davie Travel Center, Inc. which provides that the Waiver Agreement extend to September 1, 2007; and

WHEREAS, Davie Travel Center, Inc. is requesting approval of a Waiver Agreement attached hereto as Exhibit A be extended until September 1, 2008;

NOW, THEREFORE, be it resolved by the Town Council of the Town of Davie, Florida:

SECTION 1: That the Town of Davie does hereby authorize the Mayor to execute the Agreement Attached hereto as Exhibit A;

SECTION 2: This Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2007.

**EXHIBIT A (Agreement)**

**AGREEMENT BETWEEN DAVIE TRAVEL CENTER, INC.  
AND THE TOWN OF DAVIE**

This Agreement is entered into between Davie Travel Center, Inc. ("Davie Travel") and the Town of Davie ("TOWN").

**WITNESSETH:**

WHEREAS, the Davie Travel and the Town believe its in the best interest of each party to extend the waiver of the statute of limitations defense set forth in the Agreement between Jolmy Enterprises, Inc. and the Town of Davie;

NOW, THEREFORE, upon the mutual covenants and conditions contained herein including the forbearance by each party to file any litigation against the other party, the parties do hereby agree as follows:

1. The waiver period set forth in Paragraph 2 of the Agreement between Jolmy Enterprises, Inc. and the Town of Davie shall be extended from September 1, 2007 to September 1, 2008.
2. The Davie Travel Center, Inc. agrees that this extension as well as the Agreement between Jolmy Enterprises, Inc. and the Town of Davie concerning the waiver of the statute of limitations shall not be transferable or assignable to any other person or entity.

IN WITNESS WHEREOF the parties have set their hands and seals on the dates shown below:

DAVIE TRAVEL CENTER, INC.

DATED: \_\_\_\_\_

By: \_\_\_\_\_

TOWN OF DAVIE

DATED: \_\_\_\_\_

By: \_\_\_\_\_  
TOM TRUEX, Mayor

STATE OF \_\_\_\_\_ )  
 )SS  
COUNTY OF \_\_\_\_\_ )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by \_\_\_\_\_, the \_\_\_\_\_ of DAVIE TRAVEL CENTER who is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
Typed, printed, or stamped name of Notary Public

My Commission Expires:

STATE OF FLORIDA )  
 )SS  
COUNTY OF BROWARD )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by TOM TRUEX, the MAYOR of the TOWN, who is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
Typed, printed, or stamped name of Notary Public

My Commission Expires: